

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARIE DeLUCA, ADAM SHOOP, and
DAVID FARROW,

Plaintiff,

- against -

THE CITY OF NEW YORK; NEW YORK CITY
MAYOR BILL DE BLASIO; NEW YORK POLICE
DEPARTMENT ("NYPD") COMMISSIONER DERMOT
SHEA; NYPD CHIEF OF DEPARTMENT TERENCE
MONAHAN; NYPD ASSISTANT CHIEF KENNETH
LEHR; NYPD LEGAL BUREAU SERGEANT
KENNETH RICE; NYPD OFFICER CRYSTAL
WASHINGTON; NYPD OFFICER JOSEPH DECK;
NYPD OFFICER FIRST NAME UNKNOWN (FNU)
ZABALA; and NYPD MEMBERS JOHN AND JANE
DOES # 1-95,

Defendants.

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**TO: THE UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF NEW YORK**

NOTICE OF REMOVAL

Case No. #21 Civ 10777

Law Dept. No.: 2021-001551

Defendants THE CITY OF NEW YORK, NEW YORK CITY MAYOR BILL DE
BLASIO, and NEW YORK CITY POLICE DEPARTMENT ("NYPD") COMMISSIONER
DERMOT SHEA ("Defendants"), by and through their attorney, Georgia M. Pestana, Corporation
Counsel of the City of New York, respectfully show this Court as follows:

1. On September 02, 2021, Marie DeLuca, Adam Shoop, and David Farrow
("Plaintiffs") commenced this action by filing a Summons and Complaint in the Supreme Court of
the State of New York, County of Bronx, under Index No. 811952/2021E, naming the Defendants,
NYPD Chief of Department Terence Monahan, NYPD Assistant Chief Kenneth Lehr, NYPD Legal
Bureau Sergeant Kenneth Rise, NYPD Officer Crystal Washington, NYPD OFFicer Joseph Deck,

Officer Franz Zabala s/h/a NYPD Officer First Name Unknown Zabala, and John and Jane Does, and setting forth the claims for relief upon which the action is allegedly based. See Plaintiffs' Summons and Complaint, annexed as Exhibit A.

2. Upon information and belief, on November 18, 2021, Defendants were served with a Summons and Verified Complaint at 100 Church Street, New York, New York in the above-entitled action.

3. Upon information and belief, on November 19, 2021, NYPD Police Chief Kenneth Lehr was served with a Summons and Verified Complaint at the 48th Precinct of the New York City Police Department in the above-entitled action.

4. Upon information and belief, on November 19, 2021, NYPD Officer Crystal Washington was served with a Summons and Verified Complaint at the 40th Precinct of the New York City Police Department in the above-entitled action.

5. Upon information and belief, on November 22, 2021, NYPD Chief of Department Terence Monahan and NYPD Police Sergeant Kenneth Rice were served with a Summons and Verified Complaint at the One Police Plaza, New York, New York in the above-entitled action.

6. Upon information and belief, on November 22, 2021, NYPD Officer Joseph Deck and NYPD Officer Franz Zabala were served with a Summons and Verified Complaint at SRG 1 of the New York City Police Department in the above-entitled action.

7. Copies of the Affidavits of Service concerning service of the Summons and Verified Complaint on the Defendants are annexed collectively hereto as Exhibit B.

8. Chief of Department Terence Monahan, Assistant Chief Kenneth Lehr, Legal Bureau Sergeant Kenneth Rice, Officer Crystal Washington, Officer Joseph Deck, and Officer Franz Zabala s/h/a NYPD Officer First Name Unknown (FNU) Zabala have all consented to the

removal of this action to federal court. A copy of their respective Consent to Removal form is annexed hereto as Exhibit C.

9. A review of the New York State Courts Electronic Filing System on December 16, 2020, at approximately 11:30 a.m., revealed that no affidavit of service for The City of New York s/h/a New York Police Department (“NYPD”) has been filed.

10. The Defendants have not yet joined issue.

11. The above-captioned action is a civil action of which the United States District Court has original jurisdiction in that it includes causes of action which arise under the Constitution and laws of the United States, pursuant to 28 U.S.C. § 1331. This action is therefore removable to the United States District Court without regard to the citizenship or residence of the parties.

12. Plaintiffs bring this lawsuit pursuant to 42 U.S.C. § 1983 alleging, *inter alia*, claims of unlawful seizure and false arrest, excessive force, and violation of plaintiffs’ First Amendment rights, all in violation of the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution. See Exhibit A at ¶¶ 328-377. Plaintiff also asserts state law claims of, *inter alia*, assault and battery, false arrest, excessive detention, malicious prosecution, and respondent superior. See *id.* at ¶¶ 378-395.

13. This Notice of Removal is timely because it is being filed within thirty (30) days of receipt by the Defendants of a Summons and Verified Complaint. See 28 U.S.C. § 1446(b).

14. Defendants will promptly file a copy of this Notice of Removal with the Clerk of the state court in which the action has been pending.

15. Defendants are unaware of any previous application for the relief requested herein.

WHEREFORE, the Defendants respectfully request that the above-captioned action be removed from the Supreme Court of the State of New York, County of Bronx, to the United States District Court for the Southern District of New York.

Dated: New York, New York
December 16, 2021

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Assistant Chief Kenneth Lehr
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Sergeant Kenneth Rice
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New York, NY 10038

Officer Joseph Deck
NYPD SRG1
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New York, NY 10036

Officer Franz Zabala
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New York, NY 10036

Officer Crystal Washington
NYPD 40th Precinct
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